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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LUCINA CALDERA, individually and)	Case No.
on behalf of all others similarly situated,))	
Plaintiff,)	<u>CLASS ACTION</u>
vs.)	COMPLAINT FOR VIOLATIONS
)	OF:
CASHCALL INC., and DOES 1)	1. NEGLIGENT VIOLATIONS
through 10, inclusive, and each of them,))	OF THE TELEPHONE
Defendants.)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227 ET
)	SEQ.]
)	2. WILLFUL VIOLATIONS
)	OF THE TELEPHONE
)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227 ET
)	SEQ.]
)	<u>DEMAND FOR JURY TRIAL</u>

Plaintiff LUCINA CALDERA ("Plaintiff"), individually and on behalf of all others similarly situated, alleges the following against Defendant CASHCALL INC. upon information and belief based upon personal knowledge:

PARTIES

5. Plaintiff, LUCINA CALDERA (“Plaintiff”), is a natural person residing in Hacienda Heights, Los Angeles County in the state of California and is a “person” as defined by 47 U.S.C. § 153 (39).

6. At all relevant times herein, Defendant, CASHCALL INC. (“Defendant”), was a company engaged, by use of the mails and telephone, in the business of collecting a debts, and is a “person” as defined by 47 U.S.C. § 153 (39).

7. The above named Defendant, and its subsidiaries and agents, are collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

8. Plaintiff is informed and believes that at all relevant times, each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was acting within the course and scope of said agency and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

FACTUAL ALLEGATIONS

9. Beginning in or around August of 2015, Defendant contacted Plaintiff on her cellular telephone number ending in -4659, in an effort to collect

1 an alleged debt owed by Plaintiff's husband.

2 10. In its efforts to collect the alleged debt owed from Plaintiff,
3 Defendant used an "automatic telephone dialing system", as defined by 47 U.S.C.
4 § 227(a)(1) to place its calls to Plaintiff seeking to collect an alleged debt owed.

5 11. Defendant's calls constituted calls that were not for emergency
6 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

7 12. Defendant's calls were placed to telephone number assigned to a
8 cellular telephone service for which Plaintiff incurs a charge for incoming calls
9 pursuant to 47 U.S.C. § 227(b)(1).

10 13. On several occasions, Plaintiff answered Defendant's telephone call
11 and informed an agent for Defendant that: 1) Plaintiff was not responsible for the
12 alleged debt; 2) that Defendant has an incorrect telephone number and; 3) that
13 Defendant must cease placing such calls to Plaintiff.

14 14. Despite receiving this information, Defendant continued to place
15 calls to Plaintiff, on her cellular telephone, using an "automated telephone dialing
16 system."

17 15. During all relevant times, Defendant did not possess Plaintiff's
18 "prior express consent" to receive calls using an automatic telephone dialing
19 system or an artificial or prerecorded voice on her cellular telephone pursuant to
20 47 U.S.C. § 227(b)(1)(A). Plaintiff never gave Defendant her phone number nor
21 did she ever solicit Defendant's services for any reason whatsoever.

22
23 **CLASS ACTION ALLEGATIONS**

24 16. Plaintiff brings this action individually and on behalf of all others
25 similarly situated, as a member of the proposed class (hereafter "The Class")
26 defined as follows:

27
28 All persons within the United States who received any

1 telephone calls from Defendant to said person's cellular
2 telephone made through the use of any automatic telephone
3 dialing system or an artificial or prerecorded voice and
4 such person had not previously consented to receiving such
5 calls within the four years prior to the filing of this
6 Complaint

7 17. Plaintiff represents, and is a member of, The Class, consisting of All
8 persons within the United States who received any collection telephone calls from
9 Defendant to said person's cellular telephone made through the use of any
10 automatic telephone dialing system or an artificial or prerecorded voice and such
11 person had not previously not provided their cellular telephone number to
12 Defendant within the four years prior to the filing of this Complaint.

13 18. Defendant, its employees and agents are excluded from The Class.
14 Plaintiff does not know the number of members in The Class, but believes the
15 Class members number in the thousands, if not more. Thus, this matter should be
16 certified as a Class Action to assist in the expeditious litigation of the matter.

17 19. The Class is so numerous that the individual joinder of all of its
18 members is impractical. While the exact number and identities of The Class
19 members are unknown to Plaintiff at this time and can only be ascertained
20 through appropriate discovery, Plaintiff is informed and believes and thereon
21 alleges that The Class includes thousands of members. Plaintiff alleges that The
22 Class members may be ascertained by the records maintained by Defendant.

23 20. Plaintiff and members of The Class were harmed by the acts of
24 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
25 and Class members via their cellular telephones thereby causing Plaintiff and
26 Class members to incur certain charges or reduced telephone time for which
27 Plaintiff and Class members had previously paid by having to retrieve or
28 administer messages left by Defendant during those illegal calls, and invading the
privacy of said Plaintiff and Class members.

1 21. Common questions of fact and law exist as to all members of The
2 Class which predominate over any questions affecting only individual members
3 of The Class. These common legal and factual questions, which do not vary
4 between Class members, and which may be determined without reference to the
5 individual circumstances of any Class members, include, but are not limited to,
6 the following:

- 7 a. Whether, within the four years prior to the filing of this
8 Complaint, Defendant made any collection call (other than a
9 call made for emergency purposes or made with the prior
10 express consent of the called party) to a Class member using
11 any automatic telephone dialing system or any artificial or
12 prerecorded voice to any telephone number assigned to a
13 cellular telephone service;
- 14 b. Whether Plaintiff and the Class members were damages
15 thereby, and the extent of damages for such violation; and
- 16 c. Whether Defendant should be enjoined from engaging in such
17 conduct in the future.

18 22. As a person that received numerous collection calls from Defendant
19 using an automatic telephone dialing system or an artificial or prerecorded voice,
20 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
21 typical of The Class.

22 23. Plaintiff will fairly and adequately protect the interests of the
23 members of The Class. Plaintiff has retained attorneys experienced in the
24 prosecution of class actions.

25 24. A class action is superior to other available methods of fair and
26 efficient adjudication of this controversy, since individual litigation of the claims
27 of all Class members is impracticable. Even if every Class member could afford
28 individual litigation, the court system could not. It would be unduly burdensome

1 to the courts in which individual litigation of numerous issues would proceed.
2 Individualized litigation would also present the potential for varying, inconsistent,
3 or contradictory judgments and would magnify the delay and expense to all
4 parties and to the court system resulting from multiple trials of the same complex
5 factual issues. By contrast, the conduct of this action as a class action presents
6 fewer management difficulties, conserves the resources of the parties and of the
7 court system, and protects the rights of each Class member.

8 25. The prosecution of separate actions by individual Class members
9 would create a risk of adjudications with respect to them that would, as a practical
10 matter, be dispositive of the interests of the other Class members not parties to
11 such adjudications or that would substantially impair or impede the ability of such
12 non-party Class members to protect their interests.

13 26. Defendant has acted or refused to act in respects generally applicable
14 to The Class, thereby making appropriate final and injunctive relief with regard to
15 the members of The Class as a whole.

16 **FIRST CAUSE OF ACTION**

17 **Negligent Violations of the Telephone Consumer Protection Act**

18 **47 U.S.C. §227 et seq.**

19 27. Plaintiff repeats and incorporates by reference into this cause of
20 action the allegations set forth above at Paragraphs 1-26.

21 28. The foregoing acts and omissions of Defendant constitute numerous
22 and multiple negligent violations of the TCPA, including but not limited to each
23 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

24 29. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
25 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in
26 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
27 *227(b)(3)(B).*

28 30. Plaintiff and the Class members are also entitled to and seek

1 injunctive relief prohibiting such conduct in the future.

2 **SECOND CAUSE OF ACTION**

3 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
4 **Act**

5 **47 U.S.C. §227 et seq.**

6 31. Plaintiff repeats and incorporates by reference into this cause of
7 action the allegations set forth above at Paragraphs 1-30.

8 32. The foregoing acts and omissions of Defendant constitute numerous
9 and multiple knowing and/or willful violations of the TCPA, including but not
10 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
11 *seq.*

12 33. As a result of Defendant's knowing and/or willful violations of *47*
13 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
14 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47*
15 *U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

16 34. Plaintiff and the Class members are also entitled to and seek
17 injunctive relief prohibiting such conduct in the future.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

20 **FIRST CAUSE OF ACTION**

21 **Negligent Violations of the Telephone Consumer Protection Act**

22 **47 U.S.C. §227 et seq.**

- 23 • As a result of Defendant's negligent violations of *47 U.S.C.*
24 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
25 request \$500 in statutory damages, for each and every violation,
26 pursuant to *47 U.S.C. 227(b)(3)(B)*.
27 • Any and all other relief that the Court deems just and proper.

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SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the Telephone Consumer Protection
Act**

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

TRIAL BY JURY

35. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 8th Day of February, 2015.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff